

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	JUDGE DAN A. POLSTER
)	
)	
)	MEMORANDUM IN SUPPORT OF
)	MOTION FOR EXTENSION OF TIME
)	

In its role as a friend of the Court, and in order to facilitate the Court’s access to information that may be helpful to reaching a comprehensive and effective resolution of the litigation, the United States seeks a limited, partial extension of the Court’s April 11, 2018 Order [ECF No. 233], for purposes of complying with the Order.

This Court is overseeing the National Prescription Opiate Multi-District Litigation, in which plaintiff cities have sued manufacturers, distributors, and retailers of prescription opiate drugs, alleging that the defendants are liable in tort for the public health crisis relating to opioids. In the face of this national public health emergency, the United States has deployed extensive resources to combat the opioid crisis, which not only claims tens of thousands of Americans’ lives each year but is also a substantial economic burden on the public and its federal government. The United States’ broad efforts have included the use of criminal and civil tools pursuant to federal law to hold actors within the distribution chain—manufacturers, distributors, pharmacies, and physicians—accountable for their unlawful actions. In the MDL, the United States has determined that it can best assist the Court in this litigation as a “friend of the Court” because the United States has a unique interest and expertise regarding the subjects at issue in this litigation and can provide information and expertise to assist the parties and the Court in reaching a comprehensive and effective resolution of the issues in this case. The United States has offered to

lend its knowledge and understanding of the federal government and its agencies for the benefit of the litigation and provide the nationwide view of this crisis of national scope.

To assist in settlement and litigation efforts, in its Order, the Court required DEA to produce all ARCOS transactional data and Suspicious Order Reports (SORs) for Ohio, West Virginia, Illinois, Alabama, Michigan and Florida for the period from January 1, 2006, through December 31, 2014. ECF No. 233 PageID #1104. Consistent with the Order, the United States will produce the requested ARCOS transactional data and SORs, subject to the protective order previously issued by the Court and with any potential redactions of the SORs necessary to protect ongoing investigations. The United States specifically intends to produce, as ordered, all of the requested ARCOS transactional data by the close of business on April 20, 2018. However, as explained below, the United States respectfully seeks a short extension of time to gather, review, and produce all SORs.

In its Order, the Court required DEA to produce “all Suspicious Order Reports [SOR]” for Ohio, West Virginia, Illinois, Alabama, Michigan, and Florida received from January 1, 2006 through December 31, 2014. Even though the subpoena to DEA did not request SORs and the Court’s order purports to compel production with that subpoena, the United States will gather and produce them in the interest of aiding the Court and the parties. However, SORs are separate reports that are distinct from the ARCOS database. While a limited subset of SORs is reported directly to DEA Headquarters, most SORs are submitted to field offices across the United States. Importantly, there is no central repository or database for SORs. The DEA has requested its field offices to forward all SORs to headquarters for review and production. But, despite its devotion of significant resources to the effort, DEA cannot collect, review, and produce all requested SORs by Friday, April 20, 2018.

Given these facts, the United States proposes to produce the SORs pursuant to a protective order on a rolling basis, seeking to produce all SORs from the requested states and time period by May 18, 2018. The United States has conferred with Special Master David Cohen regarding this proposed production plan and has received his approval via email to proceed under the plan. Therefore, the United States requests an extension of time until May 18, 2018, in which to produce the SORs.

Dated: April 20, 2018

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(f)

Pursuant to Local Rule 7.1(f), undersigned counsel hereby certifies that the foregoing Memorandum in Support of Motion for Extension of Time is three (3) pages in length and within the limitations of an unassigned matter.

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